

## **REMARKS**

Claims 1, 3-45, and 47-75 are pending in the application. Claims 1, 42, 62, and 70 have been amended, and Claims 2 and 46 have been cancelled. Further, Claims 71-75 are newly added to the application. No new matter has been introduced by the amendment.

### **REJECTION UNDER U.S.C. § 103(a)**

Claims 1-5, 7-17, 19-22, 24, 27-35, 37-43, 46-68, and 70 have been rejected over Cherukuri et al. in view of Pierce et al. This rejection is overcome in view of the amendment of claims 1, 42, 62, and 70, together with the following remarks.

The pending independent claims have been amended to recite that the edible film composition include an effective amount of an antimicrobial agent comprising cinnamaldehyde. The composition provides a cinnamaldehyde concentration of greater than about 15.0 micrograms per milliliter of saliva in the oral cavity of the user. The Applicants respectfully assert that the cited references do not suggest or disclose a pullulan-free edible film composition that is formulated to provide a minimal specified amount of antimicrobial agent in the oral cavity of the user.

Rather than disclose a pullulan-free edible film composition formulated to deliver a specific amount of an antimicrobial agent, Cherukuri et al. disclose a multi-layered chewing gum composition that includes sweeteners, flavors, and conventional chewing gum additives. (See Abstract). Although Cherukuri et al. discloses the addition of aldehyde flavorings such as cinnamaldehyde, there is no suggestion within Cherukuri et al. that cinnamaldehyde possesses antimicrobial activity and that a composition be formulated to provide a certain minimum concentration of cinnamaldehyde in the oral cavity of the user. (See Col. 7, ll. 10-49). Further, as acknowledged on page 4 of the instant Office Action, Cherukuri et al. do not disclose edible films.

The addition of Pierce et al. does not overcome the deficiencies of Cherukuri et al. First, the Applicants assert that the Pierce et al. published patent application

does not constitute prior art to the above-referenced application. The Applicants' invention claims priority to Provisional Patent Application 60/319,370, filed June 28, 2002, and to Provisional Patent Application 60/319,346, filed June 25, 2002. Pierce et al. was not published until December 4, 2003. Thus, Pierce et al. cannot qualify as prior art under 35 U.S.C. § 102(a) or (b). Although Pierce et al. claims priority to provisional applications filed in February 11, 2002, and April 1, 2002, these provisional applications do not contain all of the subject matter disclosed in the Pierce et al. published patent application. The provisional applications cited on the face of the Pierce et al. patent application publication do not disclose a pullulan-free edible film nor do they disclose cinnamaldehyde in a pullulan-free edible film, nor do they disclose a composition in which cinnamaldehyde is delivered to the oral cavity of the user at a specific minimal concentration level. Accordingly, the Applicants' claims, as amended, distinguish over the combination of cited references.

Claims 4-5, 7-17, 19-22, 24, 27-35, and 37-41 depend either directly or indirectly from Claim 1. These claims are allowable in view of the amendment remarks pertaining to Claim 1.

Claims 43 and 47-61 are allowable in view of their direct or indirect dependence from Claim 42.

Claims 63-68 are allowable in view of their direct or indirect dependence from Claim 62.

The rejection of Claim 46 is moot in view of the Applicants' previous cancellation of Claim 46.

Claims 6, 18, 36, 44-45, and 69 have been rejected over Cherukuri et al. in view of Pierce et al. and further in view of W0 99/18940 to Bush Boake Allen Inc. ("the '940 application"). This rejection is overcome in view of the amendment of the Applicants' independent claims together with the following remarks.

The Applicants' foregoing remarks pertaining to Cherukuri et al. and to Pierce et al. are incorporated herein. The Applicants assert that the addition of the '940 application does not overcome the deficiencies of the previously-cited references.

Although the '940 application discloses malodor counteractant agents that include various forms of cinnamaldehyde among an extremely large laundry list of compounds, there is no teaching within the '940 application of a pullulan-free edible film that includes cinnamaldehyde as an antimicrobial agent and delivering a specified minimum concentration to the oral cavity of the user. Among the various examples disclosed in the '940 application, beginning at page 39, none appear to include any of the various disclosed forms of cinnamaldehyde as a malodor counteractant. Accordingly, the Applicants assert that one skilled in the art would not be motivated to combine the disclosure of the '940 application with Cherukuri et al. or Pierce et al. and, furthermore, such a combination would not provide the Applicants' claimed pullulan-free edible film. Accordingly, these dependent claims are allowable in view of their dependence from the Applicants' amended independent claims.

Claims 25-26 have been rejected over Cherukuri et al. in view of Pierce et al. and further in view of Andersen et al. This rejection is overcome in view of the amendment of Claim 1 together with the following remarks.

The Applicants' foregoing remarks pertaining to Cherukuri et al. and Pierce et al. are incorporated herein. The Applicants assert that the addition of Andersen et al. does not overcome the deficiencies of the previously-cited references. Andersen et al. discloses a chewing gum composition including controlled-release active agents, a chewing gum base, and optional conventional auxiliary agents and additives. (See Abstract). Although Andersen et al. discloses cinnamon as an example of a flavoring, there is no suggestion within Andersen et al. that cinnamaldehyde constitute an antimicrobial agent in a pullulan-free edible film. (See Col. 11, ll. 29-36). The Applicants respectfully assert that one skilled in the art would not be motivated to combine Andersen et al. with Cherukuri et al. or Pierce et al. at least because as none of these references suggest or disclose a pullulan-free edible film that includes cinnamaldehyde and delivers a specific concentration level to the oral cavity of the user.

Claims 1-5, 7-17, 19-22, 24, 27-35, 37-43, 46-68, and 70 have been rejected over Cherukuri et al. in view of Meyers. This rejection is overcome in view of the amendment of the independent claims, together with the following remarks.

The Applicants' foregoing remarks pertaining to Cherukuri et al. are incorporated herein. The addition of Meyers does not overcome the deficiency of Cherukuri et al. Meyers discloses a chewing gum that includes an edible film to increase the moisture stability in the chewing gum. Neither reference, however, suggests or discloses a pullulan-free edible film having cinnamaldehyde as an antibacterial agent that provides a specified minimum concentration in the oral cavity of user.

Claims 6, 18, 36, 44-45, and 69 have been rejected over Cherukuri et al. in view of Meyers and further in view of the '940 application. This rejection is overcome in view of the amendment of the independent claims 1, 42, and 62 together with the Applicants' preceding remarks regarding these references.

Claims 25-26 have been rejected over Cherukuri et al. in view of Meyers and further in view of Andersen et al. This rejection is overcome in view of the amendment of the independent claim 1 together with the Applicants' foregoing remarks pertaining to the cited references.

Claim 23 has been rejected over Cherukuri et al. in view of Meyers and further in view of Granatek et al. This rejection is overcome in view of the amendment of the independent Claim 1 together with the Applicants' foregoing remarks.

The Applicants' foregoing remarks pertaining to Cherukuri et al. and Meyers are incorporated herein. The addition of Granatek et al. does not overcome the deficiencies of Cherukuri et al. Granatek et al. do not suggest or disclose a pullulan-free edible film composition providing a specified minimum concentration level of the antibacterial compound cinnamaldehyde at a specified concentration level. Accordingly, Granatek et al. does not overcome the deficiencies of Cherukuri et al. and Meyers.